



General Assembly

January Session, 2013

Raised Bill No. 1127

LCO No. 4484



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT CONCERNING CAMPAIGN CONTRIBUTIONS BY STATE
CONTRACTORS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (c) of section 9-704 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2014*):

4 (c) The following shall not be deemed to be qualifying contributions
5 under subsection (a) of this section and shall be returned by the
6 campaign treasurer of the candidate committee to the contributor or
7 transmitted to the State Elections Enforcement Commission for deposit
8 in the Citizens' Election Fund:

9 [(1) A contribution from a principal of a state contractor or
10 prospective state contractor;]

11 [(2)] (1) A contribution of less than five dollars, and a contribution of
12 five dollars or more from an individual who does not provide the full
13 name and complete address of the individual;

14 [(3)] (2) A contribution under subdivision (1) or (2) of subsection (a)
15 of this section from an individual who does not reside in the state, in
16 excess of the applicable limit on contributions from out-of-state
17 individuals in subsection (a) of this section; and

18 [(4)] (3) A contribution made by a youth who is less than twelve
19 years of age.

20 Sec. 2. Subsection (e) of section 9-704 of the general statutes is
21 repealed and the following is substituted in lieu thereof (*Effective*
22 *January 1, 2014*):

23 (e) As used in this section, ["principal of a state contractor or
24 prospective state contractor" has the same meaning as provided in
25 subsection (g) of section 9-612, and] "individual" shall include sole
26 proprietorships.

27 Sec. 3. Subsection (g) of section 9-612 of the general statutes is
28 repealed and the following is substituted in lieu thereof (*Effective*
29 *January 1, 2014*):

30 (g) (1) As used in this subsection and subsections (h) and (i) of this
31 section:

32 (A) "Quasi-public agency" has the same meaning as provided in
33 section 1-120.

34 (B) "State agency" means any office, department, board, council,
35 commission, institution or other agency in the executive or legislative
36 branch of state government.

37 (C) "State contract" means an agreement or contract with the state or
38 any state agency or any quasi-public agency, let through a
39 procurement process or otherwise, having a value of fifty thousand
40 dollars or more, or a combination or series of such agreements or
41 contracts having a value of one hundred thousand dollars or more in a
42 calendar year, for (i) the rendition of services, (ii) the furnishing of any

43 goods, material, supplies, equipment or any items of any kind, (iii) the
44 construction, alteration or repair of any public building or public work,
45 (iv) the acquisition, sale or lease of any land or building, (v) a licensing
46 arrangement, or (vi) a grant, loan or loan guarantee. "State contract"
47 does not include any agreement or contract with the state, any state
48 agency or any quasi-public agency that is exclusively federally funded,
49 an education loan, a loan to an individual for other than commercial
50 purposes or any agreement or contract between the state or any state
51 agency and the United States Department of the Navy or the United
52 States Department of Defense.

53 (D) "State contractor" means a person, business entity or nonprofit
54 organization that enters into a state contract. Such person, business
55 entity or nonprofit organization shall be deemed to be a state
56 contractor until December thirty-first of the year in which such
57 contract terminates. "State contractor" does not include a municipality
58 or any other political subdivision of the state, including any entities or
59 associations duly created by the municipality or political subdivision
60 exclusively amongst themselves to further any purpose authorized by
61 statute or charter, or an employee in the executive or legislative branch
62 of state government or a quasi-public agency, whether in the classified
63 or unclassified service and full or part-time, and only in such person's
64 capacity as a state or quasi-public agency employee.

65 (E) "Prospective state contractor" means a person, business entity or
66 nonprofit organization that (i) submits a response to a state contract
67 solicitation by the state, a state agency or a quasi-public agency, or a
68 proposal in response to a request for proposals by the state, a state
69 agency or a quasi-public agency, until the contract has been entered
70 into, or (ii) holds a valid prequalification certificate issued by the
71 Commissioner of Administrative Services under section 4a-100.
72 "Prospective state contractor" does not include a municipality or any
73 other political subdivision of the state, including any entities or
74 associations duly created by the municipality or political subdivision
75 exclusively amongst themselves to further any purpose authorized by

76 statute or charter, or an employee in the executive or legislative branch
77 of state government or a quasi-public agency, whether in the classified
78 or unclassified service and full or part-time, and only in such person's
79 capacity as a state or quasi-public agency employee.

80 (F) "Principal of a state contractor or prospective state contractor"
81 means (i) any individual who is a member of the board of directors of,
82 or has an ownership interest of five per cent or more in, a state
83 contractor or prospective state contractor, which is a business entity,
84 except for an individual who is a member of the board of directors of a
85 nonprofit organization, (ii) an individual who is employed by a state
86 contractor or prospective state contractor, which is a business entity, as
87 president, treasurer or executive vice president, (iii) an individual who
88 is the chief executive officer of a state contractor or prospective state
89 contractor, which is not a business entity, or if a state contractor or
90 prospective state contractor has no such officer, then the officer who
91 duly possesses comparable powers and duties, (iv) an officer or an
92 employee of any state contractor or prospective state contractor who
93 has managerial or discretionary responsibilities with respect to a state
94 contract, (v) the spouse or a dependent child who is eighteen years of
95 age or older of an individual described in this subparagraph, or (vi) a
96 political committee established or controlled by an individual
97 described in this subparagraph or the business entity or nonprofit
98 organization that is the state contractor or prospective state contractor.

99 (G) "Dependent child" means a child residing in an individual's
100 household who may legally be claimed as a dependent on the federal
101 income tax return of such individual.

102 (H) "Managerial or discretionary responsibilities with respect to a
103 state contract" means having direct, extensive and substantive
104 responsibilities with respect to the negotiation of the state contract and
105 not peripheral, clerical or ministerial responsibilities.

106 (I) "Rendition of services" means the provision of any service to a

107 state agency or quasi-public agency in exchange for a fee,
108 remuneration or compensation of any kind from the state or through
109 an arrangement with the state.

110 (J) "State contract solicitation" means a request by a state agency or
111 quasi-public agency, in whatever form issued, including, but not
112 limited to, an invitation to bid, request for proposals, request for
113 information or request for quotes, inviting bids, quotes or other types
114 of submittals, through a competitive procurement process or another
115 process authorized by law waiving competitive procurement.

116 (K) "Subcontractor" means any person, business entity or nonprofit
117 organization that contracts to perform part or all of the obligations of a
118 state contractor's state contract. Such person, business entity or
119 nonprofit organization shall be deemed to be a subcontractor until
120 December thirty-first of the year in which the subcontract terminates.
121 "Subcontractor" does not include (i) a municipality or any other
122 political subdivision of the state, including any entities or associations
123 duly created by the municipality or political subdivision exclusively
124 amongst themselves to further any purpose authorized by statute or
125 charter, or (ii) an employee in the executive or legislative branch of
126 state government or a quasi-public agency, whether in the classified or
127 unclassified service and full or part-time, and only in such person's
128 capacity as a state or quasi-public agency employee.

129 (L) "Principal of a subcontractor" means (i) any individual who is a
130 member of the board of directors of, or has an ownership interest of
131 five per cent or more in, a subcontractor, which is a business entity,
132 except for an individual who is a member of the board of directors of a
133 nonprofit organization, (ii) an individual who is employed by a
134 subcontractor, which is a business entity, as president, treasurer or
135 executive vice president, (iii) an individual who is the chief executive
136 officer of a subcontractor, which is not a business entity, or if a
137 subcontractor has no such officer, then the officer who duly possesses
138 comparable powers and duties, (iv) an officer or an employee of any

139 subcontractor who has managerial or discretionary responsibilities
140 with respect to a subcontract with a state contractor, (v) the spouse or a
141 dependent child who is eighteen years of age or older of an individual
142 described in this subparagraph, or (vi) a political committee
143 established or controlled by an individual described in this
144 subparagraph or the business entity or nonprofit organization that is
145 the subcontractor.

146 (2) (A) No state contractor, prospective state contractor, principal of
147 a state contractor or principal of a prospective state contractor, with
148 regard to a state contract or a state contract solicitation with or from a
149 state agency in the executive branch or a quasi-public agency or a
150 holder, or principal of a holder, of a valid prequalification certificate,
151 shall make a contribution to, or, on and after January 1, 2011,
152 knowingly solicit contributions from the state contractor's or
153 prospective state contractor's employees or from a subcontractor or
154 principals of the subcontractor on behalf of (i) an exploratory
155 committee or candidate committee established by a candidate for
156 nomination or election to the office of Governor, Lieutenant Governor,
157 Attorney General, State Comptroller, Secretary of the State or State
158 Treasurer, (ii) a political committee authorized to make contributions
159 or expenditures to or for the benefit of such candidates, or (iii) a party
160 committee, except that any such state contractor, prospective state
161 contractor, principal of a state contractor or principal of a prospective
162 state contractor may make a contribution to a candidate committee
163 established by a candidate for nomination or election to the office of
164 Governor, Lieutenant Governor, Attorney General, State Comptroller,
165 Secretary of the State or State Treasurer in an amount that does not
166 exceed one hundred dollars and may make a contribution to a town
167 committee for the town in which such state contractor, prospective
168 state contractor, principal of a state contractor or principal of a
169 prospective state contractor resides in an amount that does not exceed
170 the amount an individual may contribute to a town committee
171 pursuant to subsection (a) of section 9-612;

172 (B) No state contractor, prospective state contractor, principal of a
173 state contractor or principal of a prospective state contractor, with
174 regard to a state contract or a state contract solicitation with or from
175 the General Assembly or a holder, or principal of a holder, of a valid
176 prequalification certificate, shall make a contribution to, or, on and
177 after January 1, 2011, knowingly solicit contributions from the state
178 contractor's or prospective state contractor's employees or from a
179 subcontractor or principals of the subcontractor on behalf of (i) an
180 exploratory committee or candidate committee established by a
181 candidate for nomination or election to the office of state senator or
182 state representative, (ii) a political committee authorized to make
183 contributions or expenditures to or for the benefit of such candidates,
184 or (iii) a party committee, except that any such state contractor,
185 prospective state contractor, principal of a state contractor or principal
186 of a prospective state contractor may make a contribution to a
187 candidate committee established by a candidate for nomination or
188 election to the office of state senator or state representative in an
189 amount that does not exceed one hundred dollars and may make a
190 contribution to a town committee for the town in which such state
191 contractor, prospective state contractor, principal of a state contractor
192 or principal of a prospective state contractor resides in an amount that
193 does not exceed the amount an individual may contribute to a town
194 committee pursuant to subsection (a) of section 9-612;

195 (C) If a state contractor or principal of a state contractor makes or
196 solicits a contribution as prohibited under subparagraph (A) or (B) of
197 this subdivision, as determined by the State Elections Enforcement
198 Commission, the contracting state agency or quasi-public agency may,
199 in the case of a state contract executed on or after February 8, 2007,
200 void the existing contract with such contractor, and no state agency or
201 quasi-public agency shall award the state contractor a state contract or
202 an extension or an amendment to a state contract for one year after the
203 election for which such contribution is made or solicited unless the
204 commission determines that mitigating circumstances exist concerning

205 such violation. No violation of the prohibitions contained in
206 subparagraph (A) or (B) of this subdivision shall be deemed to have
207 occurred if, and only if, the improper contribution is returned to the
208 principal by the later of thirty days after receipt of such contribution
209 by the recipient committee treasurer or the filing date that corresponds
210 with the reporting period in which such contribution was made;

211 (D) If a prospective state contractor or principal of a prospective
212 state contractor makes or solicits a contribution as prohibited under
213 subparagraph (A) or (B) of this subdivision, as determined by the State
214 Elections Enforcement Commission, no state agency or quasi-public
215 agency shall award the prospective state contractor the contract
216 described in the state contract solicitation or any other state contract
217 for one year after the election for which such contribution is made or
218 solicited unless the commission determines that mitigating
219 circumstances exist concerning such violation. The Commissioner of
220 Administrative Services shall notify applicants of the provisions of this
221 subparagraph and subparagraphs (A) and (B) of this subdivision
222 during the prequalification application process; and

223 (E) The State Elections Enforcement Commission shall make
224 available to each state agency and quasi-public agency a written notice
225 advising state contractors and prospective state contractors of the
226 contribution and solicitation prohibitions contained in subparagraphs
227 (A) and (B) of this subdivision. Such notice shall: (i) Direct each state
228 contractor and prospective state contractor to inform each individual
229 described in subparagraph (F) of subdivision (1) of this subsection,
230 with regard to such state contractor or prospective state contractor,
231 about the provisions of subparagraph (A) or (B) of this subdivision,
232 whichever is applicable, and this subparagraph; (ii) inform each state
233 contractor and prospective state contractor of the civil and criminal
234 penalties that could be imposed for violations of such prohibitions if
235 any such contribution is made or solicited; (iii) inform each state
236 contractor and prospective state contractor that, in the case of a state
237 contractor, if any such contribution is made or solicited, the contract

238 may be voided; (iv) inform each state contractor and prospective state
239 contractor that, in the case of a prospective state contractor, if any such
240 contribution is made or solicited, the contract described in the state
241 contract solicitation shall not be awarded, unless the commission
242 determines that mitigating circumstances exist concerning such
243 violation; and (v) inform each state contractor and prospective state
244 contractor that the state will not award any other state contract to
245 anyone found in violation of such prohibitions for a period of one year
246 after the election for which such contribution is made or solicited,
247 unless the commission determines that mitigating circumstances exist
248 concerning such violation. Each state agency and quasi-public agency
249 shall distribute such notice to the chief executive officer of its
250 contractors and prospective state contractors, or an authorized
251 signatory to a state contract, and shall obtain a written
252 acknowledgement of the receipt of such notice.

253 (3) (A) On and after December 31, 2006, neither the Governor,
254 Lieutenant Governor, Attorney General, State Comptroller, Secretary
255 of the State or State Treasurer, any candidate for any such office nor
256 any agent of any such official or candidate shall knowingly, wilfully or
257 intentionally solicit contributions on behalf of an exploratory
258 committee or candidate committee established by a candidate for
259 nomination or election to any public office, a political committee or a
260 party committee, from a person who he or she knows is prohibited
261 from making contributions, including a principal of a state contractor
262 or prospective state contractor with regard to a state contract
263 solicitation with or from a state agency in the executive branch or a
264 quasi-public agency or a holder of a valid prequalification certificate.

265 (B) On and after December 31, 2006, neither a member of the
266 General Assembly, any candidate for any such office nor any agent of
267 any such official or candidate shall knowingly, wilfully or intentionally
268 solicit contributions on behalf of an exploratory committee or
269 candidate committee established by a candidate for nomination or
270 election to any public office, a political committee or a party

271 committee, from a person who he or she knows is prohibited from
 272 making contributions, including a principal of a state contractor or
 273 prospective state contractor with regard to a state contract solicitation
 274 with or from the General Assembly or a holder of a valid
 275 prequalification certificate.

276 (4) The provisions of this subsection shall not apply to the campaign
 277 of a principal of a state contractor or prospective state contractor or to
 278 a principal of a state contractor or prospective state contractor who is
 279 an elected public official.

280 (5) Each state contractor and prospective state contractor shall make
 281 reasonable efforts to comply with the provisions of this subsection. If
 282 the State Elections Enforcement Commission determines that a state
 283 contractor or prospective state contractor has failed to make reasonable
 284 efforts to comply with this subsection, the commission may impose
 285 civil penalties against such state contractor or prospective state
 286 contractor in accordance with subsection (a) of section 9-7b.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2014</i>	9-704(c)
Sec. 2	<i>January 1, 2014</i>	9-704(e)
Sec. 3	<i>January 1, 2014</i>	9-612(g)

Statement of Purpose:

To permit state contractors to make limited campaign donations in a similar manner as lobbyists.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]